Before The
Surface Transportation Board

Ex Parte No. 582

Public Views on Major Rail Consolidations

Verified Statement of

National Association of Wheat Growers

The National Association of Wheat Growers herewith submits this, its Statement, in the above-described proceeding.

Background:

The National Association of Wheat Growers commends the STB for holding this most important hearing. It is hopeful that this proceeding will be the start of action by this Board to address the ever-increasing concentration of railroad marketing power.

The National Association of Wheat Growers (NAWG) represents the interests of wheat growers in 23 states across the U.S. U.S. ranks second only to the E.U. in production of wheat. Almost half of wheat produced in the U.S. is typically exported to over 60 different countries. The top export buyers of U.S. wheat are China, Egypt, Japan, Korea and Mexico. The wheat industry in U.S. produces in excess of 62 million metric tons annually.

Conclusion: U.S. wheat production is a major contributor to U.S. economy. With almost half of the wheat produced in U.S. moving into export channels, efficient and economical transportation outside the borders of the state are crucial to providing value to the citizens of U.S..

U.S. is Becoming Captive to Non-Competitive Monopoly Railroads:

The U.S. has only two major railroads in the West and two major railroads in the East and they are far enough apart in most places that they don't really compete against each other for major portions of traffic.

Historical Perspective

The farm community has for over one hundred years pushed for competition and/or regulatory protection from the abuses that are associated with monopolization of the railroad industry.

The rise of the railroad industry in the late 1800's brought with it a rise in pricing and service schemes, which became repugnant to the farm based communities, and lead to the rise, in the 1870's, of the Granger movement. This movement with its political might, became a powerful political force which influenced Congress to pass the Act to Regulate Commerce and create, in 1887, the Interstate Commerce Commission to correct abuses in the railroad industry. The Granger movement grew out of dissatisfaction with railroad excesses. The four major complaints of agriculture were:

1. Discrimination - shipper to shipper and locality versus locality.
2. Rebates to one shipper and not another
3. Special rates giving undue preference.
4. Abuses of the railroad pass system

Because Congress was slow to react, each Granger state started regulating railroads. This resulted in inconsistent regulation and eventually Congress stepped in to provide orderly regulation by passing the Act to Regulate Commerce.

The problems addressed by the Act to Regulate Commerce stemmed from the fact there were large parts of this country where a railroad had a complete monopoly over its customers. These shippers were thus 'captive' by a few 'market dominant' railroads.

The Transportation Act, 1920

The Transportation Act, 1920 returned the railroad system to private ownership after the World War I nationalization. Congress was desirous of massive railroad consolidation in order to produce a limited number of financially viable carriers, which would be able to produce a uniformly high level of service for the shipping public. The Commission was therefore ordered to prepare a general plan of consolidation for all continental United States railroads. There were to be a limited number of systems and the final plan required that each carrier have approximately the same earnings ability so that uniform rail rates would be feasible. In addition, the 1920 Act mandated that when grouping the railroads, "competition shall be preserved as fully as possible and whenever practicable the existing routes and channels of trade and commerce shall be maintained".[1]

The Transportation Act of 1940

The Transportation Act of 1940 amended Section 5(2) of the Interstate Commerce Act by stating that the ICC may authorize rail mergers if they are found to be "consistent with the public interest." Also, the Commission may impose "just and reasonable" conditions on the applicants. The "master-plan" concept, however, was completely abandoned in favor of a case-by-case approach.

[1] As quoted in Emory R. Johnson, Government Regulation of Transportation (New York: D. Appleton-Century Co., 1938), p. 318

The 1940 Act did contain four specific aspects that the ICC must consider as part of the "public interest." Section 5(2) (c) enumerates them as follows: (1) the effect of the proposed transaction upon adequate transportation service to the public; (2) the effect upon the public interest of the inclusion, or failure to include, other railroads in the territory involved in the proposed transaction; (3) the total fixed charges resulting from the proposed transaction; and (4) the interest of the carrier employees affected.

The 1940 Act is the last official Congressional statement regarding rail mergers.

WHEAT GROWING AND MARKETING IS FIERCELY COMPETITIVE WORLDWIDE:

The U.S. national farm economy does not need a monopoly transportation system exacting monopoly rents, but rather a finely tuned, competition-driven components at the producer, merchandising, transportation and export levels. American farmers want a level playing field, in order to compete in the world marketing of wheat. Our goal should be to get rid of trading cartels and monopolies so everyone can fairly compete. We must, at the transportation level, seek out and establish competition now, before the railroads become any more concentrated.

THE FARM ECONOMY IS SUFFERING

The farm economy has continued to suffer some of the worst of economic times during the last few years. Since farm production is in the national interest, Congress has seen fit to embrace the problems and seek and provide emergency assistance. Yet, the railroads have continued to increase freight rates during this crisis.

WHEAT PRODUCTION IS VIRTUALLY CAPTIVE IN LARGE PARTS OF THE COUNTRY

Federal policy by the ICC, and now the STB, has left our country grain production virtually captive over large areas of the country, especially in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Oklahoma, North Dakota, and South Dakota. Captive areas can also be found in portions of California, Minnesota, Oregon, Washington, New Mexico and Texas.

The railroads that serve the U.S. have the ability to dominate the movement of grain to destination. The problem is not that a single rail customer is captive, rather the large portions of the U.S. wheat industry are captive.

NAWG RECOMMENDATIONS TO THE STB ON FUTURE RAIL MERGER POLICY:

- The STB, in rail mergers, should not allow Class I carriers to restrict, through paper barriers, access of shortlines (Class II and III's) to other Class I's.
- NAWG supports the efforts of the Alliance for Rail Competition to bring competition and competitive forces back into the nation's railroad system.
- The STB should not approve any future railroad mergers without re-introducing competition into the railroad system.
- NAWG will support the idea the Montana Wheat & Barley Committee has put forth in this proceeding to setup demonstration projects to study the effects of introducing competition into the rail industry.

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